

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
	:	
UNITED STATES OF AMERICA	:	FINAL ORDER OF
	:	FORFEITURE
-v.-	:	OF FORFEITURE AS TO
	:	<u>SUBSTITUTE ASSETS</u>
RAFAEL MARTINEZ,	:	
	:	S2 22 Cr. 251 (LJL)
Defendant.	:	
-----	X	

WHEREAS, on or about June 9, 2023, this Court entered a Preliminary Order of Forfeiture as to Substitute Assets (the “Substitute Assets Order”) (Dkt. 73), which ordered the forfeiture to the United States of all right, title and interest of RAFAEL MARTINEZ, (the “Defendant”) in the following property: any and all funds on deposit in Citibank Account No.: 9346614051 held in the name of MBE Capital Partners LLC (the “Substitute Asset”);

WHEREAS, the Substitute Assets Order directed the United States to publish, for at least thirty (30) consecutive days, notice of the Substitute Assets Order, notice of the United States’ intent to dispose of the Substitute Asset, and the requirement that any person asserting a legal interest in the Substitute Asset must file a petition with the Court in accordance with the requirements of Title 21, United States Code, Sections 853(n)(2) and (3). Pursuant to Section 853(n), the United States could, to the extent practicable, provide direct written notice to any person known to have an alleged interest in the Substitute Assets and as a substitute for published notice as to those persons so notified;

WHEREAS, the provisions of Title 21, United State Code, Section 853(n)(1), Rule 32.2(b)(6) of the Federal Rules of Criminal Procedure, and Rules G(4)(a)(iv)(C) and G(5)(a)(ii) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, require

publication of a notice of forfeiture and of the Government's intent to dispose of the Substitute Asset before the United States can have clear title to the Substitute Assets

WHEREAS, the Notice of Forfeiture and the intent of the United States to dispose of the Substitute Assets was posted on an official government internet site (www.forfeiture.gov) beginning on June 13, 2023, for thirty (30) consecutive days, through July 12, 2023, pursuant to Rule G(4)(a)(iv)(C) of the Supplemental Rules for Admiralty and Maritime Claims and Asset Forfeiture Actions and proof of such publication was filed with the Clerk of the Court;

WHEREAS, on or about June 15, 2023, Notice of the Preliminary Order of Forfeiture was sent via electronic mail to the Federal Reserve Bank of San Francisco (the "FRB-SF");

WHEREAS, on or about November 2, 2023, Notice of the Preliminary Order of Forfeiture was sent via certified mail to Carra Wallace, Chelsea Martinez, Louis Green, MBE Capital Partners, LLC, and the U.S. Small Business Administration (with the FRB-SF, the "Noticed Parties");

WHEREAS, on or about August 24, 2023, the Government seized \$4,027,156.37 on deposit in the Subject Account (the "Seized Funds");

WHEREAS, the FRB-SF advised the Government of its ownership interest in \$2,197,050.48 of the Seized Funds (the "FRB-SF Funds");

WHEREAS, on or about September 25, 2023, the Court entered a Stipulation and Order resolving the respective interests of the Government and the FRB-SF in the Specific Property (D.E. 88) wherein the Government agreed to return the FRB-SF Funds to FRB-SF and FRB-SF agreed to withdraw any claim of interest in the remaining \$1,830,105.89 of the Seized Funds (the "Forfeitable Funds");

WHEREAS, since final publication of the Notice of Forfeiture, thirty (30) days have expired and no petitions or claims to contest the forfeiture of the Substitute Asset have been filed;

WHEREAS, the Defendant and the Noticed Parties are the only individuals and/or entities known by the Government to have a potential interest in the Substitute Asset; and

WHEREAS, pursuant to Title 21, United States Code, Section 853(n)(7), the United States shall have clear title to any forfeited property if no petitions for a hearing to contest the forfeiture have been filed within thirty (30) days of final publication of notice of forfeiture as set forth in Title 21, United States Code, Section 853(n)(2);

NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. All right, title and interest in the Forfeitable Funds is hereby forfeited and vested in the United States of America, and shall be disposed of according to law.
2. Pursuant to Title 21, United States Code, Section 853(n)(7) the United States of America shall and is hereby deemed to have clear title to the Forfeitable Funds.
3. The United States Department of Treasury (or its designee) shall take possession of the Forfeited Funds and dispose of the same according to law, in accordance with Title 21, United States Code, Section 853(h).

Dated: New York, New York
December 26, 2023

SO ORDERED:



HONORABLE LEWIS J. LIMAN
UNITED STATES DISTRICT JUDGE